



Gerald C. Mann  
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ATTORNEY GENERAL

**THE ATTORNEY GENERAL  
OF TEXAS  
AUSTIN, TEXAS**

March 30, 1939

Honorable T. C. Andrews  
Member, Board of Pardons and Paroles  
Austin, Texas

Dear Sir:

Opinion Number 9-546,  
Location of the residence and  
office of the Chairman of the  
Board of Pardons and Paroles

We have your letter of March 24, 1939, in which you ask our opinion upon the question whether the Chairman of the Board of Pardons and Paroles may reside in Huntsville, or whether it is necessary that he reside in Austin. You state that one of the Members of the Board, Judge J. B. Keith, now resides and has his headquarters in Huntsville, and that it is contemplated that he may be selected as the next Chairman of the Board. You ask our advice as to whether or not it will be necessary for Judge Keith, if he is elected Chairman, to reside and have his headquarters in Austin, or whether he may continue to reside in Huntsville.

The present Board of Pardons and Paroles is created by Article 4, Section 11, of the Constitution of the State of Texas, as amended by the constitutional amendment adopted November 3, 1936. This constitutional amendment supersedes the former Board of Pardons and Paroles, which was created by Chapter 45, Acts First Called Session, 41st Legislature, and all amendments thereto, including Chapter 348, Acts 44th Legislature, Regular Session, which undertook to locate the offices of the Board of Pardons and Paroles at Huntsville.

Article 4, Section 11, of the State Constitution, as amended, does not make any provision with reference to the location of the offices of the Board of Pardons and Paroles, or the residence of the members, except to provide that the members shall have been residents of the State of Texas for a period of not less than two years immediately preceding their appointment. Since the adoption of the amendment to Article 4, Section 11, there have been two statutes which provided for the location of the offices of the Board of Pardons and Paroles. Section 2 of Chapter 292, Acts 45th Legislature, Regular Session, 1937, page 584, provides that one Member of the Board of Pardons and Paroles

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shall have his headquarters at Huntsville, and that two Members of the Board shall remain in Austin, where the main office of the Board shall be located. This act covered the period only up to and including August 31, 1937.

Chapter 504, Acts of the 45th Legislature, Regular Session, 1937, page 1362, provides (at page 1398) that one Member of the Board of Pardons and Paroles shall have his headquarters at Huntsville and that two Members of the Board shall remain in Austin, where the main office of the Board is located. This act is a general appropriation bill covering the period beginning September 1, 1937, and ending August 31, 1939. The provision above referred to purports to be a regulation by the Legislature of the manner in which the money appropriated for the Board of Pardons and Paroles shall be expended by the Board.

There is no mention of a Chairman of the Board of Pardons and Paroles in the Constitution or in either of the statutes above referred to. There is no provision in the law for any duties to be performed by any Chairman of the Board of Pardons and Paroles which may not be performed by any other Member. For this reason, it is our opinion that under the statutes above referred to, the Member of the Board who has his headquarters at Huntsville, may be elected Chairman of the Board of Pardons and Paroles and it will not thereupon become necessary for him to remove his residence and headquarters to Austin, so long as the two other Members of the Board remain in Austin.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By /s/ James P. Hart  
James P. Hart  
Assistant

JPH:AM:PM

APPROVED:

/s/ W. F. Moore

ATTORNEY GENERAL OF TEXAS

/s/ Gerald C. Mann